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**Board of Vocational Nursing
and Psychiatric Technicians**

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2009-3235

ANTWAN RENE SMART
1688 Montrose Lane
Lincoln, CA 95648

A C C U S A T I O N

Vocational Nurse License
Number VN 183030

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.

2. On or about December 5, 1997, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 183030 to Antwan Rene Smart ("Respondent"). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2013, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

1 4. Section 2875 of the Code provides, in pertinent part, that the Board may discipline the
2 holder of a vocational nurse license for any reason provided in Article 3 (commencing with
3 section 2875) of the Vocational Nursing Practice Act.

4 5. Section 2892.1 of the Code provides, in pertinent part, that the Board may renew an
5 expired license at any time within four (4) years after the expiration.

6 6. Section 820 of the Code states:

7 Whenever it appears that any person holding a license, certificate or
8 permit under this division or under any initiative act referred to in this division
9 may be unable to practice his or her profession safely because the licentiate's
10 ability to practice is impaired due to mental illness, or physical illness affecting
11 competency, the licensing agency may order the licentiate to be examined by one
12 or more physicians and surgeons or psychologists designated by the agency. The
13 report of the examiners shall be made available to the licentiate and may be
14 received as direct evidence in proceedings conducted pursuant to Section 822.

12 **STATUTORY PROVISIONS**

13 7. Code section 822 states:

14 If a licensing agency determines that its licentiate's ability to practice
15 his or her profession safely is impaired because the licentiate is mentally ill, or
16 physically ill affecting competency, the licensing agency may take action by any
17 one of the following methods:

18 (a) Revoking the licentiate's certificate or license.

19 (b) Suspending the licentiate's right to practice.

20 (c) Placing the licentiate on probation.

21 (d) Taking such other action in relation to the licentiate as the
22 licensing agency in its discretion deems proper.

23 The licensing agency shall not reinstate a revoked or suspended
24 certificate or license until it has received competent evidence of the absence or
25 control of the condition which caused its action and until it is satisfied that with due
26 regard for the public health and safety the person's right to practice his or her
27 profession may be safely reinstated.

24 **COST RECOVERY**

25 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licentiate found to have committed a violation or violations of
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1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FACTUAL BACKGROUND**

4 9. On or about January 19, 2012, in an effort to determine whether or not Respondent
5 was impaired due to a mental or physical illness to the extent that his condition affected his ability
6 to safely practice vocational nursing, the Board filed a Petition for Order to Compel Psychiatric
7 and/or Physical Examination in accordance with Code section 820.

8 10. On or about March 2, 2012, the Board filed its Order Compelling Psychiatric and/or
9 Physical Examination pursuant to Code section 820 requiring Respondent to submit to a
10 psychiatric examination.

11 11. On or about March 26, 2012, Respondent complied with the Board's Order and was
12 interviewed by Charles B. Schaffer, M.D., Diplomate, American Board of Psychiatry and
13 Neurology, at his office. Dr. Schafer's reported findings include the following:

14 a. Respondent has a chronic mood disorder. Possible diagnoses of this mood
15 disorder are Bipolar Disorder, Not Otherwise Specified; Major Depressive Disorder or Mood
16 Disorder, Not Otherwise Specified.

17 b. Respondent has a history of panic attacks, and these panic attacks are probably
18 associated with his mood disorder when it is not under adequate control rather than the result of a
19 primary Panic Disorder.

20 c. Respondent also has the diagnosable psychiatric disorder Amphetamine
21 Abuse/Dependence.

22 d. Respondent lacks the ability to practice vocational nursing safely because of his
23 two psychiatric disorders, in that his Amphetamine Abuse/Dependence Disorder are not under
24 adequate control at the current time and the symptoms of the disorders prevent Respondent from
25 practicing vocational nursing safely.

26 e. Respondent self-reported he was unable to function satisfactorily as a licensed
27 vocational nurse performing clinical work while employed as a vocational nurse in a clinical
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1 setting, which was prior to the time that he changed careers to become a licensed vocational nurse
2 teacher.

3 f. Respondent has not demonstrated that he can perform vocational nursing safely
4 in a clinical setting, as indicated by the complaints about his performance and behavior while
5 employed in his prior clinical positions.

6 g. Respondent should not be allowed to practice vocational nursing until he
7 receives appropriate and successful treatment for his two (2) psychiatric disorders.

8 **CAUSE FOR DISCIPLINE**

9 **(Mental Illness Affecting Competency)**

10 12. Respondent is subject to discipline under Code section 822, in that Respondent's
11 ability to practice his profession of vocational nurse safely is impaired due to mental illness
12 affecting his competency, as more particularly set forth in paragraph 11, above.

13 **PRAYER**

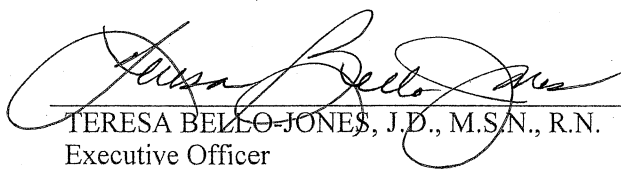
14 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
16 issue a decision:

17 1. Revoking or suspending Vocational Nurse License Number VN 183030, issued to
18 Antwan Rene Smart;

19 2. Ordering Antwan Rene Smart to pay the Board of Vocational Nursing and Psychiatric
20 Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to
21 Business and Professions Code section 125.3; and

22 3. Taking such other and further action as deemed necessary and proper.

23
24 DATED: NOV 05 2012

25 
TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
26
27 *Complainant*